

Application Serial No.: 10/587.002
Amendment and Response dated January 9, 2009
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REMARKS/ARGUMENTS

Upon entry of the instant amendment, claims 66-94 are pending in the instant application. Claims 66-94 have been added. Claims 33-65 have been canceled without prejudice. Applicants respectfully submit that the amendments do not introduce new matter and are made without any intention to abandon the subject matter as filed, but with the intention that claims of the same, greater, or lesser scope may be filed in a continuing application.

Rejections Under 37 C.F.R. §1.142(b)

The amendment to the claims filed on August 12, 2008 in response to the non-final office action mailed February 13, 2008 were deemed non-compliant by the Examiner for the presentation of claims that are restrictable according to original claim presentation, as the claims presented new matter with regard to prosecution while no claims are available for prosecution under CFR 37 1.142(b) as all previous claims were cancelled with the amendment of August 12, 2008. The Examiner further stated that the previously submitted claims are distinct from the claims originally presented because it incorporates steps and features that were not disclosed in the original claims and identifying restrictable invention groups as follows:

1. claims 1-15,22-32: delivering a weather related advertisement to an individual by selecting the weather related advertisement according to weather information about expected weather conditions
2. claims 33-53: determines a nowcast for an individual
3. claims 54-59: distinct because discloses nowcast weather server, an advertising rule engine that determines ad per rule engine, and server for delivery
4. claim 60: animation matrix and creating ad using story board
5. claims 61-65: method for weather based demand curve using learning engine rather than delivery of weather related ad.

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The Examiner's assertion are respectfully traversed, as the claim language presented in claims 33-65 of August 12, 2008 have basis in both the claims and description of the instant application as originally filed. However, in the spirit of expediting and facilitating the examination process claims 33-65 presented on August 12, 2008 have been cancelled, rendering the rejections of the Examiner moot.

Accordingly, new claims 66-94 are presented herewith are based on the wording and spirit of the original application both in its description and claims as originally presented. Specifically, independent claim 66 is based on originally presented claims 1, 28, 11, 12 and 14. Similarly, independent claim 86 is based on the originally presented claims 22, 28 and 13. New claim 92 is identical to originally presented claim 1.

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